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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,521	10/27/2003	Larry Lee Roundy	199-0205US	1892
29855 7590 07/31/2009 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 6th Floor HOUSTON, TX 77070				
			EXAMINER SMITH, MARCUS	
			ART UNIT 2419	PAPER NUMBER
			MAIL DATE 07/31/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/694,521

**Applicant(s)**

ROUNDY ET AL.

**Examiner**

MARCUS R. SMITH

**Art Unit**

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/20/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 5, 6, 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 9, and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed on 7/20/09 is sufficient to overcome the previous prior art reference. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

***Allowable Subject Matter***

2. The indicated allowability of claims 1, 2, 5, 6, 9, and 10 is withdrawn in view of the newly discovered reference(s) to Miloslavsky et al. (US 6,597,685). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "a second state" in line 4 and "a second state" in line 7. Since the independent claim recites to second state, the examiner can not determine which second state the applicant is referring back to in claim 2.

6. Claim 5 recites the limitation "a second state" in lines 3-4 and "a second state" in line 8. Since the independent claim recites to second state, the examiner can not determine which second state the applicant is referring back to in claim 6.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 2, 5, 6, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler et al. (US 5,206,903) in view of Miloslavsky et al. (US 6,597,685).

Regarding to claims 1, 5, 9 (see figure 9), Kohler teaches a method for processing incoming calls comprising: receiving at least first and second incoming calls (steps 900, 901: column 10, lines 15-25: ACD receives incoming calls), retaining the first incoming call in a first state (step 902, column 10, lines 25-30, it examines the oldest (first) call in the queue. ), waiting until the first incoming call progresses to a second state (Step 905 :column 10, lines 40-45), answering the second incoming call and placing it in the first state after the first incoming call progresses to the second state (column 10, lines 40-45: after step 905, it goes back to steps 901,902), and transitioning

the second incoming call in the first state to a second state (after 902, it transitions to step 905 : column 10, lines 40-45).

Kohler discloses all of the subject matter as described above except starting a timer when placing the second incoming call in the first state; and hanging up the second incoming call and placing it in a third state if the timer expires.

Miloslavsky teaches a PBX/ACD that accepts and routes multiple (video) calls to a plurality of video station (column 5, lines 1-25). Miloslavsky's ACD is similar to Kohler's ACD except that Miloslavsky's ACD uses a timer to terminated a call, when it can not connect the call (see figure 3, steps 294-298). These steps in figure 3 teach that ACD disconnects the call (third state) and sends out busy signal. The examiner views sending a busy signal as hanging up the call, because it forces the caller to end the call, and try to call back later.

Thus it would have been obvious to one having ordinary skill in the art at the time invention was made to PBX/ACD will move the call into a disconnect (third) state and return a busy signal which will cause the caller to hang up the phone as taught by Miloslavsky in the system of Kohler to process calls faster and to handle video calls and conferencing (column 2, lines 15-25).

Regarding to claims 2, 6, 10, Kohler further teaches that the first state is a pending answer state (where the call is the head of queue waiting to be process; step 902) and the second state is a call connected state (step 905. column 10, lines 35-45).

***Response to Arguments***

9. Applicant's arguments with respect to claims 1, 2, 5, 6, 9, and 10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS R. SMITH whose telephone number is (571)270-1096. The examiner can normally be reached on Mon-Thurs: 7:30 am - 5:00 p.m. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571 272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Michael J. Moore, Jr./  
Primary Examiner, Art Unit 2419